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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/603,499	06/24/2003	Scott D'Avanzo	087635.000007	3208
29747	7590	06/14/2007	EXAMINER	
GREENBERG TRAURIG			RENDON, CHRISTIAN E	
3773 HOWARD HUGHES PARKWAY			ART UNIT	PAPER NUMBER
SUITE 500 NORTH			3714	
LAS VEGAS, NV 89169				
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06/14/2007		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/603,499	D'AVANZO, SCOTT
	<b>Examiner</b>	<b>Art Unit</b>
	Christian E. Rendón	3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 24 June 2003.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 7-16 and 21-33 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 17-16 and 21-33 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 24 June 2003 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### ***Specification***

1. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed. The following title is suggested: 'Casino Machine with an Air Blower Randomizer in a Bonus Game'.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 16 and 32 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter that was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The Office finds these claims contradictory to independent claims 7 and 21, which states that the indicia are isolated randomly without the use of a random number generator or a computer processor. The isolation of indicia in a pre-established order as stated in the claims negates the limitations set forth by the independent claims confusing one of ordinary skill on which isolation method is implemented in the device. An appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

**Claims 7, 9, 11, 13-14, 21-22, 24, 26-28, 30-31 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chateau (US 4,961,578) in view of Wolf et al. (US 7,198,569 B2).**

3. Regarding claims 7, 11, 21-22, 30-31 and 33, Chateau discloses a machine for randomly drawing out balls that are agitated by a current of air (Abstract) from a sphere-like container (Fig. 1). The invention is designed to fulfill three criteria: true randomization processes of the mixing of the balls, clear symbols on the balls and the elimination of doubt about the origin of the extracted ball (col. 1, lines 15-22). The mixing of the balls is considered truly random since an air supply or blower is agitating the balls (col. 1, lines 29-30) with an air current (col. 1, lines 63-66). The mixing process is activated manual by the user or automatically by opening the flaps (Fig. 1, 4) allowing air to flow into the container (col. 2, lines 1-5). The extraction of a ball begins with a vacuum (Fig. 1, 12) creating a sudden depression in the tube (Fig. 1, 8). Once a ball is captured (col. 2, lines 33-36), a motor (Fig. 1, 13) is fired up to move the tube towards a transparent chute (Fig. 1, 16) and finally the ball is drawn into the opening either by a blower or another device like another vacuum (col. 2, lines 53-56). The symbols on the balls define the number a player had to have picked prior to the selection of the winning number.

4. However Chateau fails to disclose his invention as a secondary game that is activated by a primary game. Wolf discloses a gaming device that presents optimal solutions to win at a card base primary game (col. 1, lines 59-62). The device may include a secondary or bonus game to allow players the opportunity to win credits (col. 6, lines 28-30). The bonus game is automatically activated when the

player has achieved a qualifying condition or pre-established outcome in the main game (col. 6, lines 30-33). The theme or type of game that is incorporate into the device is arbitrary as well as the symbols, indicia and the form: mechanical, electrical, video of the gaming device. Furthermore, Wolf discloses keno as a possible bonus game, which is a lottery-like casino game (col. 3, lines 58-64).

5. It would have been obvious to one having ordinary skill in the art at the time the invention was made to combine the lottery-drawing machine disclosed by Chateau as the secondary game in the gaming device disclosed by Wolf, since the purpose of both machines is to create a bond of trust with the player. Chateau states that displaying the mixing and extraction process for the player to see will gain a player's trust in the machine (Chateau: col. 1, 20-22). Wolf discloses a game that displays the best solutions to winning the current game (Wolf: Abstract) and once that suggestion is proven correct a player will want to continue playing the game since they trust the device. The whole experience creates an exciting environment for the player (Wolf: col. 1, lines 49-53), and a bonus game must continue to express this experience to the player. Therefore one having ordinary skill would include the lottery machine as a bonus game to a Wolf gaming device displaying keno or any other casino game to create a winning environment for the player.

6. Regarding claims 9 and 24, Wolf discloses a gaming device that includes speaker (Fig. 1A, 36) for producing sounds that will accompany the game.

7. Regarding claims 13-14 and 26-28, the above description of the invention disclosed by Chateau and the limitations they pertain is considered within this art rejection as well. Chateau discloses another embodiment of a machine for drawing of lottery balls. The extraction process of an isolated ball is the difference between the two machines. According to the 2<sup>nd</sup> embodiment, a ball is captured into a transparent tube (col. 3, lines 24-25) by a strong suction but halted by a projected stop (Fig. 7, 23) that is activated by the user (col. 3, lines 20-23). The ball is halted to give the tube time to line up an opening

(Fig. 7, 18) with another tube (Fig. 5, 19-20) to finish the extraction process (col. 3, lines 29-33).

Therefore a vacuum tube that isolates a ball from other balls is in communication with the ball container.

**Claims 7-8, 10, 12, 15-16, 21, 23, 25 and 32-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chateau (US 4,961,578) in view of one having ordinary skill in the art.**

8. Regarding claims 7, 12, 21, 25 and 33, the above description of the invention disclosed by Chateau and the limitations they pertain is considered within this art rejection as well. Chateau discloses a container of two different shapes: a sphere and a diamond to encase multiple balls. The only exit available to the balls is the transparent vacuum tube located at the top of the structure (col. 2, lines 53-56). The prior art is silent about the container having a blender-like shape and a vacuum tube in communication with the top of the blender, the lid. It would have been an obvious matter of design choice to shape the structure of the game around a theme, since applicant has not disclosed that a party/drinking game theme solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well with the structure of the prior art.

9. Regarding claims 8, 10 and 23, Wolf discloses that the symbols and indicia of both games are arbitrary (col. 3, lines 62-63). Therefore indicia shaped into cubes and displaying symbols representing multipliers and bonuses are considered mere design choice.

10. Regarding claims 15 and 29, the above description of the invention disclosed by Chateau and the limitations they pertain is considered within this art rejection as well. The 2<sup>nd</sup> embodiment discloses a projected stop or lever that isolate a ball or award indicator from many other indicators. The user controls the projected stop, however the prior art fails to disclose a microprocessor controlling the projected stop as an alterative method. It would have been obvious to one having ordinary skill in the art at the time the invention was made to allow a microprocessor control of the projected stop, since it has been held that broadly providing an automatic means to replace a manual activity which has accomplished the same result involves only routine skill in the art.

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11. Regarding claims 16 and 32, the above description of the art combination of Chateau and Wolf and the limitations they pertain are considered within this art rejection as well. The art combination discloses the claimed invention except for the isolation of multiple indicators. It would have been obvious to one having ordinary skill in the art at the time the invention was made to repeat the extraction process until the proper amount of indicia are selected, since it has been held that mere duplication of the essential steps of a device involves only routine skill in the art.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christian E. Rendón whose telephone number is 571-272-3117. The examiner can normally be reached on 9 - 5pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert E. Pezzuto can be reached on 571-272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Christian E Rendón  
Examiner  
Art Unit 3714

CER

*Ronald Laneau*  
RONALD LANEAU  
PRIMARY EXAMINER

6/8/07